1951.

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File No. Boroughs II/51 (R)

Legal Dept.

D **BRANCH**

Subject:— Rules under the Bombay Municipal Boroughs Act, 1925

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File No. Boroughs II/51 (R)

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356-L

The addition of the word "maximum" in the proposed rules by the Dhulia Municipality would not ~~mx~~ meet the objections on which the court held similar rules framed by the Amlner Municipality as ultra vires. In ascertaining the annual rental value the rating authority can have recourse to any of the recognised methods of arriving at the annual rent which a hypothetical tenant might reasonably be expected to pay, including the method of taking a percentage of the capital value (see Madras and Southern Mahratta Railway Co., Ltd. v Bezwada Municipality 71 I.A. 113). A rule for determining the annual rental value with reference merely to the built up or open area cannot be regarded as a recognised method for determining the annual letting value and has properly been held by the court as arbitrary and not rational. The addition of the word "maximum" to the rules will ~~x~~ no doubt give the assessing authority discretion, subject to the maximum rates, to assess different factory premises at different sums but that will not make the rule any the less arbitrary or free from the objections pointed out in the judgment.

B.D.M.
Sd.~~P.M.~~Lad
Additional Secretary to Government.

U.R. to L.S.G. & P.H.D.NO. 3554 , dated the 27th February 1951.

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